

JUL 10 2008

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 5989)

SHAFROTH FOR CONGRESS)

CASE CLOSURE UNDER THE

ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

and are deemed inappropriate for review by the Alternative Dispute Resolution

Office are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated

matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to

dismiss these cases.

The Office of General Counsel scored MUR 5989 as a low-rated matter. In this case,

the complaint alleges that Shafroth for Congress (the "Committee") violated 2 U S C

§ 434(b)(3)(A) and 11 C F R § 104.8(a) by failing to accurately report the occupation and

employer of its donors. The complaint also alleges that the Committee failed to exercise its

best efforts pursuant to 2 U S C § 432(i) and 11 C F R § 104.7 and, thus, cannot be deemed

to be in compliance with the reporting requirements of Federal Election Campaign Act of

1971, as amended (the "Act"). Finally, the complaint alleges that the Committee committed

these apparent violations knowingly and willfully, because the Committee had an interest in

concealing the true identity of its donors or its failure to exercise best efforts to obtain donor

information.

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1 The response states that the Committee was not in substantial violation of the Act
2 Specifically, the 47 names identified by the complaint constituted only 7% of 659 itemized
3 contributions. After a thorough review of its reports, the response admits that the Committee
4 mistakenly identified 9 donors as "community volunteers" and promptly amended its report
5 to the Commission. The response states that given the review of Committee's reports, which
6 included directly contacting each donor who may have been misidentified, the Committee
7 exercised its best efforts to comply with the Act's reporting requirements and any errors that
8 were made were minor, not misleading or intentional. Accordingly, the Committee requests
9 that the Commission dismiss the complaint.

10 In light of the de minimis nature of the alleged violations, and in furtherance of the
11 Commission's priorities and resources, relative to other matters pending on the Enforcement
12 docket, the Office of General Counsel believes that the Commission should exercise its
13 prosecutorial discretion and dismiss the matter. *See Heckler v Chaney*, 470 U.S. 821 (1985).

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RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 5989, admonish Shafroth for Congress and Stanley Garnett, as Treasurer, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

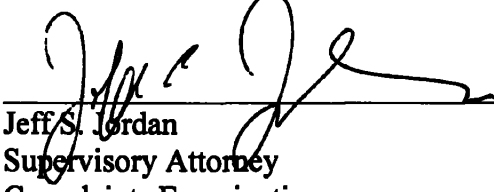
Thomaseia P. Duncan
General Counsel

8/6/08
Date


BY:



Gregory R. Baker
Special Counsel
Complaints Examination
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Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration



Jin Lee
Attorney

Attachment:
Narrative in MUR 5989

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4 **MUR 5989**

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6 **Complainant:** Jared Polis for Congress

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8 **Respondents:** Shafroth for Congress
9 Stanley Garnett in his official capacity as Treasurer

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11 **Allegations:** The complaint alleges that Shafroth for Congress (the "Committee")
12 violated 2 U.S.C. § 434(b)(3)(A) and 11 C.F.R. § 104.8(a) by failing to accurately report
13 the occupation and employer of its donors. The complaint further alleges that the
14 Committee failed to exercise its best efforts pursuant to 2 U.S.C. § 432(i) and 11 C.F.R. §
15 104.7 and thus cannot be deemed to be in compliance with FECA's reporting
16 requirements. Finally, the complaint alleges that the Committee committed these
17 apparent violations knowingly and willfully because the Committee had an interest in
18 concealing the true identity of its donors or its failure to exercise best efforts to obtain
19 donor information.

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21 **Response:** The response argues that the Committee was not in substantial violation of
22 FECA. The response first notes that the 47 names identified by the complaint constituted
23 only 7% of 659 itemized contributions. After a thorough review of its reports, the
24 response admits that the Committee mistakenly identified 9 donors as "community
25 volunteers" and promptly amended its report to the Commission. The response states that
26 given the review of Committee's reports, which included directly contacting each donor
27 who may have been misidentified, the Committee exercised its best efforts to comply
28 with FECA's reporting requirements and any errors that were made were minor, not
29 misleading, and not intentional. Accordingly, the response argues that the Commission
30 should dismiss the complaint.

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32 **Date complaint filed:** April 8, 2008

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34 **Response filed:** May 2, 2008
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